

§ 37.535

(e) They are not included as cost sharing contributions for any other Federal award.

(f) They are not paid by the Federal Government under another award, except:

(1) Costs that are authorized by Federal statute to be used for cost sharing; or

(2) Independent research and development (IR&D) costs, as described at 32 CFR 34.13(a)(5)(ii), that meet all of the criteria in paragraphs (a) through (e) of this section. IR&D is acceptable as cost sharing, even though it may be reimbursed by the Government through other awards. It is standard business practice for all for-profit firms, including commercial firms, to recover their research and development (R&D) costs (which for Federal procurement contracts is recovered as IR&D) through prices charged to their customers. Thus, the cost principles at 48 CFR part 31 allow a for-profit firm that has expenditure-based, Federal procurement contracts to recover through those procurement contracts the allocable portion of its R&D costs associated with a technology investment agreement.

§ 37.535 How do I value cost sharing related to real property or equipment?

You rarely should accept values for cost sharing contributions of real property or equipment that are in excess of depreciation or reasonable use charges, as discussed in § 37.685 for for-profit participants. You may accept the full value of a donated capital asset if the real property or equipment is to be dedicated to the project and you expect that it will have a fair market value that is less than \$5,000 at the project's end. In those cases, you should value the donation at the lesser of:

(a) The value of the property as shown in the recipient's accounting records (*i.e.*, purchase price less accumulated depreciation); or

(b) The current fair market value. You may accept the use of any reasonable basis for determining the fair market value of the property. If there is a justification to do so, you may accept the current fair market value even if it

32 CFR Ch. I (7–1–08 Edition)

exceeds the value in the recipient's records.

§ 37.540 May I accept fully depreciated real property or equipment as cost sharing?

You should limit the value of any contribution of a fully depreciated asset to a reasonable use charge. In determining what is reasonable, you must consider:

(a) The original cost of the asset;

(b) Its estimated remaining useful life at the time of your negotiations;

(c) The effect of any increased maintenance charges or decreased performance due to age; and

(d) The amount of depreciation that the participant previously charged to Federal awards.

§ 37.545 May I accept costs of prior research as cost sharing?

No, you may not count any participant's costs of prior research as a cost sharing contribution. Only the additional resources that the recipient will provide to carry out the current project (which may include pre-award costs for the current project, as described in § 37.830) are to be counted.

§ 37.550 May I accept intellectual property as cost sharing?

(a) In most instances, you should not count costs of patents and other intellectual property (*e.g.*, copyrighted material, including software) as cost sharing, because:

(1) It is difficult to assign values to these intangible contributions;

(2) Their value usually is a manifestation of prior research costs, which are not allowed as cost share under § 37.545; and

(3) Contributions of intellectual property rights generally do not represent the same cost of lost opportunity to a recipient as contributions of cash or tangible assets. The purpose of cost share is to ensure that the recipient incurs real risk that gives it a vested interest in the project's success.

(b) You may include costs associated with intellectual property if the costs are based on sound estimates of market value of the contribution. For example, a for-profit firm may offer the use of commercially available software for